

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATHANIEL ALLEN LINDELL,

Plaintiff,

ORDER

v.

12-cv-759-wmc
App. No. 14-1294

CATHY A. JESS, *et al.*,

Defendants.

State inmate Nathaniel Allen Lindell filed a proposed civil action pursuant to 42 U.S.C. § 1983, lodging an assortment of claims against multiple defendants in connection with the conditions of his confinement. On November 6, 2013, the court issued an order striking that complaint and instructing Lindell to submit an amended version setting forth a single claim or claims permissibly joined in compliance with Fed. R. Civ. P. 18(a) and 20(a). When Lindell failed to comply within the time allowed, his case was dismissed on January 7, 2014, for want of prosecution pursuant to Fed. R. Civ. P. 41(b).

Lindell has now filed a notice of appeal from the November 6, 2013 decision that his claims were “improperly joined.” Because he has not paid the \$505.00 appellate docketing fee, he presumably seeks leave to proceed *in forma pauperis* on appeal.

In determining whether a litigant is eligible to proceed *in forma pauperis* on appeal, the court must find that he is indigent and, in addition, that the appeal is taken in good faith for purposes of Fed. R. App. P. 24(a)(3). *See* 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken *in forma pauperis* if the court certifies in writing that it is not taken in good faith.”). Because this case was dismissed pursuant to Fed. R. Civ. P. 41(b), after

giving Lindell ample opportunity to correct obvious defects in his original pleading and warning him that dismissal would result from his failure to do so, the court will not certify that the appeal is taken in good faith. Accordingly, his implicit request for leave to proceed *in forma pauperis* on appeal must be denied.

ORDER

IT IS ORDERED that:

1. The court CERTIFIES that the appeal is not taken in good faith for purposes of Fed. R. App. P. 24(a)(3).
2. Plaintiff Nathaniel A. Lindell's request for leave to proceed *in forma pauperis* on appeal is DENIED.
3. Although this court has certified that the appeal is not taken in good faith under Fed. R. App. P. 24(a)(3), Wille is advised that he may challenge this finding pursuant to Fed. R. App. P. 24(a)(5), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, United States Court of Appeals for the Seventh Circuit, within thirty (30) days of the date of this order.

Entered this 12th day of February, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge